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5 **UNITED STATES DISTRICT COURT**
6 **DISTRICT OF NEVADA**

7 MONTGOMERY CARL AKERS, }
8 Plaintiff, }
9 v. }
10 HENRY RIVAS et al., }
11 Defendants. }
12

2:16-cv-02815-APG-VCF
TRANSFER ORDER

13 **I. DISCUSSION**

14 Plaintiff, a *pro se* prisoner who is incarcerated at the U.S. penitentiary in Marion, Illinois,
15 has submitted an application to proceed *in forma pauperis* and a civil rights complaint pursuant
16 to *Bivens*¹. (ECF No. 1, 1-1). Plaintiff sues two federal correctional officers in Illinois and one
17 attorney in Indiana for events that took place while Plaintiff was incarcerated in the U.S.
18 penitentiary in Marion, Illinois. (ECF No. 1-1 at 1-2).

19 Pursuant to 28 U.S.C. § 1391(b), a plaintiff may bring an action in:

20 (1) a judicial district in which any defendant resides, if all defendants are
21 residents of the State in which the district is located; (2) a judicial district in
22 which a substantial part of the events or omissions giving rise to the claim
occurred, or a substantial part of property that is the subject of the action is
situated; or (3) if there is no district in which an action may otherwise be brought
23 as provided in this section, any judicial district in which any defendant is subject
to the court's personal jurisdiction with respect to such action.

24 28 U.S.C. § 1391(b)(1)-(3). Pursuant to 28 U.S.C. § 1406, if a case has been filed in the
25 wrong district or division, the district court in which the case has been incorrectly filed may
26 "transfer such case to any district or division in which it could have been brought." 28 U.S.C.
27 § 1406(a).

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¹ *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971).

1 The Court finds that the District of Nevada is not the appropriate venue for this action
2 because the events occurred in Marion and two of the three defendants reside in Marion.
3 Marion is in the Southern District of Illinois. The Court directs the Clerk of the Court to transfer
4 this action to the United States District Court for the Southern District of Illinois. This Court
5 offers no opinion on the merits of this action or on the application to proceed *in forma pauperis*.
6 The Clerk of the Court is directed to close the case in this Court.

II. CONCLUSION

8 For the foregoing reasons, IT IS ORDERED that the Clerk of the Court shall transfer this
9 case to the United States District Court for the Southern District of Illinois.

10 IT IS FURTHER ORDERED that the Clerk of the Court shall close the case in this Court.

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DATED: This 9th day of December, 2016.

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United States District Judge

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